

UNITED STATES DISTRICT COURT
SOUTHER DISTRICT OF NEW YORK

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JOSHUA WILES,

Index No. 13-cv-2898 (VSB)

Plaintiff,

v.

Affirmation of David
Thompson in Opposition
to the Defendants' Motion
for Summary Judgment

THE CITY OF NEW YORK, a municipal entity,
NEW YORK CITY POLICE OFFICER PASTULA,
NEW YORK CITY POLICE LIEUTENANT
ZIELINSKI, NEW YORK CITY POLICE
SERGEANT JOHN SLAYNE, NEW YORK CITY
POLICE OFFICER JOHN MCNAMARA, and NEW
YORK CITY POLICE OFFICERS "JOHN DOES
1-10,"

Defendants.
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David A. Thompson of Stecklow Cohen & Thompson, declares under penalty of perjury
and pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the attorney of record in this case. As such, I am familiar with the facts
stated below and the proceedings held herein. I submit this declaration in opposition to the
defendants' motion for summary judgment.

2. Attached hereto as Exhibit 1A is a true and correct copy of the April 30, 2013
Complaint.

3. Attached hereto as Exhibit 1B is a true and correct copy of the July 19, 20-13
"Answer on Behalf of the City of New York and Police Officer Pastula."

4. Attached hereto as Exhibit 1C is a true and correct copy of the July 2, 2014
Second Amended Complaint.

5. Attached hereto as Exhibits 1D, 1E, and 1F are true and correct copies of the
affidavits of service of the July 2, 2014 Second Amended Complaint.

6. Attached hereto as Exhibit 1B is a true and correct copy of the January 17, 2013
50-H hearing/deposition of the plaintiff.

7. Attached hereto as Exhibit 1H is a true and correct copy of the March 13, 2014 deposition of the plaintiff (two electronic files for upload due to size).

8. Attached hereto as Exhibit 1I is a true and correct copy of a state license certification history.

9. The designation "Exhibit 1J" is reserved.

10. Attached hereto as Exhibit 1K is a true and correct copy of the docket sheet as of May 8, 2015.

11. Attached hereto as Exhibit 2A is a true and correct copy of an image of the State Supreme Courthouse at 60 Centre Street.

12. Attached hereto as Exhibit 2B is a true and correct copy of the Desk Appearance Ticket from the plaintiff's November 5, 2011 arrest.

13. Attached hereto as Exhibit 2C is a true and correct copy of the prisoner movement sheet related to the plaintiff's November 5, 2011 arrest.

14. Attached hereto as Exhibit 2D is a true and correct copy of Omniform arrest report for the plaintiff's November 5, 2011 arrest.

15. Attached hereto as Exhibit 2E is a true and correct copy of the March 27, 2014 deposition of Lieutenant Michael Zielinski (two electronic files for upload due to size).

16. Attached hereto as Exhibit 2F is a true and correct copy of the April 30, 2014 deposition transcript of the 30(b)(6) witness for matters relating to the November 5, 2011 arrest, Deputy Chief Steven Anger, who was also the Incident Commander on that date,

17. Attached hereto as Exhibit 2G is a true and correct copy of a May 6, 2015 Affidavit of Joshua Wiles relating to issues concerning his November 5, 2011 arrest.

18. Attached hereto as Exhibit 2H is a true and correct copy of the September 19, 2014 deposition of Police Officer John McNamara.

19. Attached hereto as Exhibit 2I is a true and correct copy of a May 6, 2015 Affidavit of Joshua Wiles relating to issues concerning the testimony of Police Officer John McNamara.

20. Attached hereto as Exhibit 2J is a true and correct copy of an article bearing an image of the plaintiff as he was being placed under arrest on November 5, 2011.

21. Attached hereto as Exhibit 2K is a true and correct copy of the June 2, 2014 Affidavit of Police Officer John McNamara.

22. Attached hereto as Exhibit 2L is a true and correct copy of the memo book of Police Officer John McNamara.

23. Attached hereto as Exhibit 3A is a true and correct copy of the Desk Appearance Ticket for the plaintiff's September 17, 2012 arrest.

24. Attached hereto as Exhibit 3B is a true and correct copy of the prisoner movement sheet for the plaintiff's September 17, 2012 arrest.

25. Attached hereto as Exhibit 3C is a true and correct copy of the Omniform arrest report for the plaintiff's September 17, 2012 arrest.

26. Attached hereto as Exhibit 3D is a true and correct copy of the memo book of Detective Pastula for the plaintiff's September 17, 2012 arrest.

27. Attached hereto as Exhibit 3E is a true and correct copy of the March 21, 2014 Deposition of Brian Pastula.

28. Attached hereto as Exhibit 3F is a true and correct copy of the May 15, 2014 Deposition of the 30(b)(6) witness for matters relating to the plaintiff's September 17, 2012 arrest, Deputy Chief James McNamara.

29. Attached hereto as Exhibit 3G is a true and correct copy of a May 6, 2015 Affidavit of Joshua Wiles concerning matters relating to his September 17, 2012 arrest.

30. Attached hereto as Exhibit 4A is a true and correct copy of the August 26, 2013 decision of the Unemployment Insurance Appeal Board.

31. Attached hereto as Exhibit 4B is a true and correct copy of the May 13, 2014 deposition of the Rule 30(b)(6) witness for the City of New York on employment-related matters, Susan Holtzman.

32. Attached hereto as Exhibit 4C is a document relating to the reporting of the plaintiff's September 17, 2012 arrest, and his eligibility for work.

33. Attached hereto as Exhibit 4D is a document relating to the reporting of the plaintiff's September 17, 2012 arrest, and his eligibility for work.

34. Attached hereto as Exhibit 4E is a May 6, 2014 Affidavit of Joshua Wiles relating to employment issues.

35. Attached hereto as Exhibit 4F is a true and correct copy of a per diem pay detail history through June 2013.

36. Attached hereto as Video A is a true and correct copy of a video downloaded from YouTube of the plaintiff's arrest, with the filename: Video A - This is how NYPD operates on Occupy Wall Street peaceful pro.mp4.

37. Attached hereto as Video B is a true and correct copy of a video of the September 17, 2012 arrest and incident said to have been created by TARU Officer Ellis, with the filename Video B - Ellis - 20120917092053.mpg

38. Attached hereto as Video C is a true and correct copy of a video of the September 17, 2012 arrest and incident said to have been created by TARU Officer Turner, with the filename 20120917092008.MTS.

39. Attached hereto as Video D is a true and correct copy of a video of the September 17, 2012 arrest and incident said to have been created by TARU Officer Cruz, with the filename 20120917092029.MTS.

40. Attached hereto as Video E is a true and correct copy of a video of the November 5, 2011 arrest and incident said to have been created by TARU Officer Morales, with the filename VTS_01_1.VOB.

41. Attached hereto as Video F is a true and correct copy of a video of the November 5, 2011 arrest and incident with the filename OWSFOley_Square_11511.mp4.

42. Attached hereto as Video F is a true and correct copy of a video of the November 5, 2011 arrest and incident with the filename Plaintiff's Video Exchanged March 11, 2015 - Video 1.MOV.

DATED: New York, New York
May 8, 2015

Respectfully submitted,

//s//

DAVID A. THOMPSON [DT 3991]
STECKLOW COHEN & THOMPSON
ATTORNEYS FOR PLAINTIFF
217 Centre Street, 6th Floor
Phone: (212) 566-8000
Fax: (212) 202-4952
dave@sctlaw.nyc